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Proposed National Liquor Policy (Liquor Act 59 of 2003)

Report Categories:
Trade Policy Monitoring
Beverages

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Report Highlights:
On May, 20, 2015, the South African Department of Trade and Industry (DTI) published a government notice (No. 38808) inviting the public to comment on the National Liquor Policy. If the policy is implemented in its current form, it is expected to have economic implications to the liquor industry and could affect United States liquor exports. Post encourages United States companies and organizations to review the policy and make submissions to DTI by no later than August, 13, 2015.

Background

On May, 20, 2015, the South African Department of Trade and Industry (DTI) published a government notice (No. 38808) inviting the public to comment on the National Liquor Policy. The notice can be downloaded on the following link: http://www.gov.za/sites/www.gov.za/files/38808_gen446.pdf . The deadline for public comment was extended to August, 13, 2015 as per the following notice, http://www.greengazette.co.za/notices/department-of-trade-and-industry-extension-for-the-public-to-comment-on-the-national-liquor-policy_20150626-GGN-38910-00654.pdf .

The United States exports of wine, beer and distilled spirits to South Africa was about US$ 16.3 Million in 2014. The liquor industry adds considerable value to the South African economy. Industry statistics estimate that the direct contribution of the alcohol industry to the economy is approximately R116 Billion; indirect contribution is estimated at R56.7 billion; and the induced impact estimated at R160.5 billion. However, there are various social and economic problems that are widely attributed to alcohol consumption in South Africa. This has resulted in the formation of the Inter Ministerial Committee (IMC) on Combating Substance Abuse, and various liquor regulations being proposed in South Africa. The link to the GAIN reports on the proposed liquor regulations are presented in Table 1 on the last page of this report.

Proposed Policy Amendments

The gazette notice indicates that the overall objective of the policy review is to address the following challenges in the South African liquor industry:

- Socio-economic impact of liquor and other costs of alcohol abuse;
- Slow pace of transformation in the liquor industry;
- Standardization of key aspects of regulation and collaboration;
- Eradicating the manufacturing and trading in illegal liquor;
- Capacity and enforcement constraints within the National Liquor Authority (NLA);
- Introducing an internal review mechanism within the NLA;
- Ensuring an effective National Liquor Policy Council (NLPC).

Based on the above challenges, the Liquor Policy Act makes the following key proposals:

- Restrictions on the advertising of alcoholic beverages and prohibitions on sponsorship and promotions associated with alcoholic beverages;
- Raising the minimum legal drinking age from 18 to 21 year old;
- Regulating the availability of alcohol by restricting the hours when liquor sales are permitted;
- Standardized licensing requirements that ensure liquor premises are at least 500m away from schools, places of worship, recreational facilities, residential areas and public institutions;
- Proposed extended liability for liquor manufacturers and distributors if they sell alcoholic beverages to unlicensed trade outlets and/or outlets selling to intoxicated persons and/or or outlets selling illicit products;
- The creation of a government managed fund to combat alcohol abuse which would be funded by the industry contributing a percentage to be determined by the DTI;
- Proposed that non-compliance to BBBEE codes should result in suspension or revocation of liquor licenses;
- A standardized regulatory enforcement system to ensure collaboration between national, provincial and local departments of government;

- A review of the organizational structure of the National Liquor Authority (NLA) to ensure it has the appropriate capacity for liquor registration, enforcement and education;

Industry Responses and Policy implications

The response to the proposed liquor policy has been more negative than positive. The liquor policy has been supported for its proposal to prohibit the issuing of liquor licenses to petrol service stations and premises attached to them, as this would reduce drinking and driving. However, other industry stakeholders have indicated that this would not entirely solve the problems related to alcohol and alcohol abuse because alcohol will still be easily accessible in other places.

The proposal to increase the minimum drinking age to 21 has been met with both support and criticism. Some stakeholders support the proposals based on the evidence that this has worked in other countries such as the United States, which reported decreases in fatal traffic crashes involving young drivers following the increase in the minimum drinking age. Criticism of increasing the minimum drinking age to 21 has been based on its possible violation of civil rights of persons aged 18 to 21, given that they have more significant constitutional rights such as voting. In addition, there are arguments that there is inconclusive scientific evidence to prove that increasing the legal drinking age will effectively address underage alcohol consumption.

The South African Breweries (SABMiller) has indicated through media reports that while it was still too early to measure the impact of the proposed policy, similar tighter regulations have affected their operations and profits in other emerging markets. The increased uncertainty on liquor policy would impact the SABMiller share prices in the short term.

Industry has raised concern that the proposed extended liability for liquor manufacturers and distributors if they sell alcoholic beverages to unlicensed trade outlets or to intoxicated persons, would expose the industry to significant liability in areas which it has limited control over. Such a measure would also see increases in costs brought about by liability claims which would also result in increases in insurance liability cover as the risk profile of liquor establishments would be higher.

Post contacts have indicated that the immediate revocation of liquor licenses held by non-compliant BBBEE companies could severely disrupt the flow of commercial activities across the liquor industry value chain. Concerns have also been raised that the new policy restricting advertisements and sponsorships of liquor products could result in significant loses of sponsorships to major sports teams such as the soccer national team and cricket team which are sponsored by liquor companies.

The proposed policy has also been criticized by industry that it could result in unfair and uncompetitive practice. Firstly, a difficult license regime will be counter-productive to the transformation agenda as it would affect the small/ medium enterprises more than the bigger organizations that have the resources to deal with such legal requirements. Secondly, the policy would be unfair to liquor outlets that would be forced to close down because they are less than 500m away from a church or school, even though they have been in operation years before the respective church or school.

The creation of a government managed fund to combat alcohol abuse which would be funded by the industry contributing a percentage to be determined by the DTI, has been criticized as it could increase the risk of illicit trade, result in higher tax burdens and could encourage other countries in the region especially SACU to adopt alcohol levies.

Industry has raised concern that the policy will be impossible to implement. For example, it would be difficult to prove that a liquor outlet was aware of the level of intoxication of a client. The definition of public places that will be affected by the policy is not clear, and there are uncertainties whether it would include airports which have registered liquor outlets and restaurants which serve alcohol.

Conclusion

While the intentions of the liquor policy are well meaning, given the challenges South Africa is facing such as the problems associated with alcohol and alcohol abuse, the proposed policy requires further clarification, simplification and some of the policy proposals are impossible to implement or monitor compliance. If the policy is implemented in its current form, it is expected to have economic implications to the liquor industry and could affect United States exports. Post encourages United States companies and organizations to review the policy and make submissions to DTI by August, 13 2015.

The details for the point of contact for the submission of comments are provided below.

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Table 1: Other related GAIN Reports

Report Name	**Link**
The South African Wine Industry: Production, Consumption and Trade	**Download**
Regulation amendment on container labels of alcoholic beverages	**Download**
Food and Agricultural Import Regulations and Standards - Narrative	**Download**
Amendments to regulation relating to food labelling and advertising	**Download**